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The foregoing remarks are noteworthy in themselves, but they are the more interesting because they come from the pen of a Greek, who asserts that he had but an imperfect knowledge of Latin (Plut. *Dem.* 2).

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LYSIAS ON *THE SACRED OLIVE*

In this oration, Lysias vii, the speaker defends himself from the charge of removing from his lands the stump of a sacred olive tree or the inclosure protecting such a stump. The proof is at once produced that the speaker had never had in his possession the stump in question, and that there had been none for several years before he came into possession of the field where the stump was assumed to have been. With this positive testimony that there had been no stump and no inclosure the decision of the jury could not be in doubt; yet Lysias continues his speech. It is as if a man charged with murder should produce in court as a witness the very person he is assumed to have slain, and then bring on arguments from probabilities and previous good character. No jury could convict anyone for the murder of a man who is alive and present.

Lysias having won his case by the most positive evidence proceeds to argue from probabilities, from the defendant's previous good character, and from his services to the state. No one who reads the first fifty lines can doubt that the decision must be for acquittal. Why then is the speech prolonged to nearly five times its necessary length?

Lysias had no standard of length and as a rule when his case was won he began to prepare for the conclusion and having proved his case from facts rested his case on these facts, e.g., *Or.* xxiii, *Against Pancleon*, is a complete speech, resting on more than one proof, yet is about a third as long as this.

Why was he not contented to end his arguments when a decision in his favor was inevitable?

Professor Morgan, following Blass, says: "Here [after the proof that there had been no stump in the field] we might expect the defendant to rest his case, for it seems as if he had certainly said enough to make sure of an acquittal. That he goes on, however, shows that judges in an Athenian court laid less stress upon the testimony of eyewitnesses than we do, and preferred to hear arguments." This is taking Lysias altogether too seriously. Lysias made his living by writing speeches, and he had many clients who could pay him little or nothing. He must have donated his speech, for "The Cripple," and the defendant in *Or.* i, was a man of slender means who could have paid but little.

Here he had a rich client and here was his chance to raise the average of his fees. The speaker repeatedly laid stress on his wealth, saying: "I was not compelled by poverty to do this," "The accuser says because of my wealth no

one wishes to testify against me.” He refers to his many farms, and boasts that no man in Athens has been more lavish in public expenditures; “The accuser had no idea of convicting me, but hoped to get money from me.”

Plainly the speaker had great wealth, was proud of it, and Lysias wished to keep that fact clear in his mind. Had Lysias limited himself to the simple proof of innocence, the speech would have been so short that he could have presented nothing more than a modest bill, but when he added probabilities to positive proof, expanded and amplified these probabilities, showed what a hero and a patriot this rich man was, then any bill however large would have seemed moderate.

Such an opportunity did not come often, and Lysias met the demands of the jury by proving that his client was innocent, he met the demands of that client by writing him a long speech for a long bill.

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